

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 741 of 1999

with

SPECIAL CIVIL APPLICATION NO. 4290 OF 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and

MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

SHAMIK P MEHTA

Versus

CHAIRMAN

Appearance:

Special Civil Application No.741 of 1999.

PARTY-IN-PERSON for Petitioner (Absent)

GOVERNMENT PLEADER for Respondent No. 1, 3

MR NV ANJARIA for Respondent No. 2

Special Civil Application No.4290 of 1999

MR GM JOSHI for petitioners

MR NV ANJARIA for respondent No.2

GOVERNMENT PLEADER for respondents No.1 & 3

CORAM : MR.JUSTICE C.K.THAKKER and

MR.JUSTICE A.L.DAVE

Date of decision: 06/09/1999

ORAL JUDGEMENT (Per Thakkar, J.)

1. Special Civil Application No.741 of 1999 is filed by one Dr. Shamik P. Mehta whereas Special Civil Application No.4290 of 1999 is filed by Dr. Brijesh Chhotubhai Patel and Others. In the second petition, which is filed through an advocate, the following prayers have been prayed :-

"26. Petitioner therefore, prays that:

(A) This Hon'ble Court be pleased to issue a writ of Mandamus or any other appropriate writ, direction or order quashing and set aside the Rule 1.1.d and 4.7 in so far as it makes mandatory for the student seeking admission to Post Graduate Diploma Courses, so far as it attaches compulsory residency to students seeking admission to Post Graduate Diploma courses.

(B) This Hon'ble Court be pleased to issue a writ of Mandamus or in the nature of Mandamus or any other appropriate writ, direction or order declaring that the inaction on the part of the respondent State of not providing residency for Diploma student is absolutely bad, and direct the respondent No.1 to provide for Residency for Diploma students.

(C) Be pleased to pass such other and further orders as may deem just and proper in the facts and circumstances of the case.

(D) Be pleased to award the costs of this petition.

(E) Pending admission, hearing and final disposal of this petition, be pleased to restrain the respondents from finalising admissions to the Post Graduate Courses for the academic year 1999-2000."

2. Initially, a Division Bench (Coram: K.G. Balakrishnan, C.J. & S.D. Dave, J.) passed the following order on 28th June, 1999 :

"Per: K.G. Balakrishnan, C.J. :-

Ld. Government counsel Mr. S.K. Patel submitted that, necessary instructions will be obtained from the concerned authorities as to whether the Residency could be provided to the students who may be admitted to the P.G. Diploma Course. The interview for selection of the candidates for P.G. Degree course may commence as scheduled, and if any supernumerary posts are to be filled up, the interview also may be conducted and the details regarding the number of seats to be filled in shall be submitted to the Court on 30th June, 1999. Copy of the order shall be furnished to the Ld. Government Pleader."

3. Today, a statement was made by Mr. Anjaria appearing on behalf of respondent No.2-Gujarat University that the grievances of the petitioners, i.e. petitioner of Special Civil Application No.741 of 1999 and petitioners of Special Civil Application No.4290 of 1999 have not survived and, hence, the petitions have become infructuous. So far as petitioner of Special Civil Application No.741 of 1999 is concerned, he is not represented by an advocate and he is absent. It is not disputed that all the petitioners of Special Civil Application No.4290 of 1999 have also been accommodated.

4. In view of the fact that the grievance of the petitioners does not survive, it is not necessary to express any opinion one way or the other on merits of the matter. As and when the question will arise in future, it will be decided on merits of that matter without being influenced by the decision of these petitions. The petitions are disposed of accordingly. Rule in Special Civil Application No.741 of 1999 and notice in Special Civil Application No.4290 of 1999 are discharged. No costs.

[C.K. THAKKAR, J.]

[A.L. DAVE, J.]

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